



# Mental Health (Care and Treatment) (Scotland) Act 2003

## 2003 asp 13

### PART 5

#### EMERGENCY DETENTION

##### *Suspension of authority to detain*

#### **41 Suspension of authority to detain**

- (1) Where—
- (a) a patient is subject to an emergency detention certificate; and
  - (b) the patient's responsible medical officer grants a certificate specifying a period during which the emergency detention certificate shall not authorise the measure mentioned in section 36(8)(b) of this Act,
- the emergency detention certificate does not authorise that measure during that period.
- (2) A period specified in a certificate granted under subsection (1) above may be expressed as—
- (a) the duration of—
    - (i) an event; or
    - (ii) a series of events; or
  - (b) the duration of—
    - (i) an event; or
    - (ii) a series of events,and any associated travel.
- (3) If the responsible medical officer considers that it is necessary—
- (a) in the interests of the patient; or
  - (b) for the protection of any other person,
- a certificate granted under subsection (1) above may include conditions such as are mentioned in subsection (4) below; and any such conditions shall have effect.

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**Changes to legislation:** *Mental Health (Care and Treatment) (Scotland) Act 2003, Section 41 is up to date with all changes known to be in force on or before 25 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (4) Those conditions are—
- (a) that, during the period specified in the certificate, the patient be kept in the charge of a person authorised in writing for the purpose by the responsible medical officer;
  - (b) such other conditions as may be specified by the responsible medical officer.

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**Commencement Information**

- II** S. 41 in force at 5.10.2005 by S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)

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[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 64(8A)(8B) inserted by [2015 asp 9 s. 1\(2\)](#)
- s. 65(7) inserted by [2015 asp 9 s. 1\(3\)](#)